IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1461 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KOLI MANIBEN MOTIBHAI

Versus

KOLI PUNABHAI SAGRAMBHAI

Appearance:

MR GM JOSHI for Petitioner Nos. 1-4

MR SURESH M SHAH for Respondent No. 1

MR MEHUL S SHAH for Respondent No. 1

RULE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/03/2004

ORAL JUDGEMENT

The present petitioners are the original plaintiffs of Regular Civil Suit No.343 of 1998. In the aforesaid suit, the petitioners submitted an application

for interim injunction. The trial court granted injunction in favour of the petitioners-original plaintiffs, against which the present respondents preferred an appeal before the District Court at Morbi. The same was heard by the Extra Assistant Judge, Morbi and by the impugned order, the Assistant Judge, Morbi, allowed the said appeal and set aside the order of injunction granted by the trial court below Exhibit 5 in Regular Civil Suit No.343 of 1998. Against the aforesaid order, the original plaintiffs have filed the present Civil Revision Application. It is not in dispute that, as the order in question is interlocutory in nature, in view of the amendment in Section 115 of the Code of Civil Procedure, this revision is not maintainable. Therefore, the CRA is dismissed as not maintainable. Rule is discharged. No costs.

At this stage, it is requested on behalf of the petitioners that the petitioners would like to file a petition under Article 227 of the Constitution of India and for that purpose, since this revision is not entertained only on the ground that it is not maintainable, the petitioners are permitted to challenge the impugned order by filing a petition under Article 227 of the Constitution of India, and the interim relief granted earlier is extended upto 29th March, 2004.

1st March, 2004 (P.B. Majmudar, J.)

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(apj)